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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/562,582

12/28/2005

Shouzi Yamazaki

SHM-16348

8547

40854 7590 03/21/2008

RANKIN, HILL & CLARK LLP

38210 Glenn Avenue

WILLOUGHBY, OH 44094-7808

EXAMINER

VARGOT, MATHIEU D

ART UNIT

PAPER NUMBER

1791

MAIL DATE

DELIVERY MODE

03/21/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/562,582	<b>Applicant(s)</b> YAMAZAKI, SHOUZI	
	<b>Examiner</b> Mathieu D. Vargot	<b>Art Unit</b> 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2 and 4-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2 and 4-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

1.The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 4-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coon et al, either alone, or further in view of Wycech -078 essentially for reasons of record noting the following.

While Coon does not explicitly disclose that the foamable material would consist of multiple discrete microcapsules (ie, shells) encapsulating a liquid or solid core, applicant is referred to column 10, lines 31-37. This passage discloses that the material 14 would be an encapsulated pellet, which includes an expandable foamable material, encapsulated within an adhesive shell, which would then be deposited within chamber 12. Hence, Coon teaches a core/shell arrangement for the foamable material wherein the only missing aspects are multiple discrete microcapsules and that the shell is specifically a thermoplastic. Given that Figures 2 and 3 of Coon show the material to be loaded as discrete pellets, it surely would have been obvious to employ the microcapsule embodiment of Coon as multiple microcapsules. Also, thermoplastics are conventional encapsulating agents for foams and other materials to be encapsulated. Given the disclosure of Coon et al alone, it is submitted that instant claim 2 would have been obvious. Wycech -078 (col. 5, lines 15-30) is being additionally applied to show the aspects of thermoplastic microcapsules and foams, such being nothing but conventional in the art. It is submitted that one of ordinary skill in this art would know

that foams are often supplied as discrete thermoplastic film microcapsules and the capsules are subsequently broken upon heating and expansion of the foam inside.

2.Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Upon closer review of Coon et al, it is believed that a 103 exists on the instant claims over this reference alone. Also, Wycech -078 has been additionally applied to teach thermoplastic film microencapsulated foams. Applicant had earlier argued that Wycech -078 was not applicable to the claims because the reference taught spraying and application of the resin to the area to be covered—ie, not application as discrete microcapsules. However, it should be noted that Wycech -078 is not being relied upon to teach how the foam is applied—Coon et al does this—but rather the form of the foamable resin, which appears to be readable on the instant.

3.Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mathieu D. Vargot whose telephone number is 571 272-1211. The examiner can normally be reached on Mon-Fri from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson, can be reached on 571 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Vargot  
March 16, 2008

/Mathieu D. Vargot/  
Primary Examiner, Art Unit 1791